

TOWN OF DERRY

Town Council Meeting
Derry Municipal Center

December 4, 2007
Tuesday 7:30 p.m.

Staff Present: Chief Garone, Chief Klauber, and Frank Childs

Salute to Flag led by Councilor Metts, Warning of Fire Exits, Handicap Access, Turn off all Cell Phones and Pagers

Roll Call: Fairbanks, Carney, Metts, Coyle, Chirichello, Ferrante, and Chairman Bulkley

Consent Agenda

- 07-100** Acceptance of Non-Public Minutes – November 13, 2007
- 07-101** Acceptances of Minutes – November 13, 2007
- 07-102** Schedule Public Hearing – December 18, 2007 – Amend the Town of Derry Land Development Control Regulations – Fees and Costs

Changes: 07-102 Public Hearing Changed to January 15, 2008. Amend November 13, 2007 minutes page 4, Public Hearing John Burtis refers to CERT not CART.

Consent Agenda Accepted with changes 7-0-0

Chairman's Report –

***** December & January Meeting Schedule

December 18th meeting cancelled.

January Town Council Meetings: Regular January 15th & 29th

Schedule meeting with Planning, Conservation & TC-TBD in Jan

Schedule a Public Hearing for 1/29/08 Derry Rail Trail

New Business- Schedule 07-104 Modification of Elderly Exemptions 1/15/2008

*Reminder 12/11/07 Private Road Work Session

Liaison Reports

Councilor Carney reported on the DHRA - final audit is completed and there was no finding, Thank you to Robert Flagg, Director of DHRA. Betty Hartwell is retiring after 25 years of service to the DHRA.

Taylor Library is moving forward with expansion

Conservation Commission is reviewing land criteria. In memory of Albert Doolittle the Conservation Commission is holding a memorial at Broadview Farm on 2/20/08 @ 8pm to Watch a Total Eclipse.

Councilor Metts reported on Hazmat received \$87,000 Grant for equipment & training.

School Board Kindergarten will be internally housed in the elementary schools next year.

Pinkerton Academy is under a large construction project of the fields and in the process of approving and adding a Freshman Academy building.

Councilor Chirichiello reported on the Public Works facility at the Transfer Station and the Sewer Project is almost completed on Upstone will finish in spring.

Councilor Ferrante reported on Planning Board working on the GMO and open space subdivisions zoning. Annual Holiday Parade and Very Derry Holiday 300+ children attended and the Turkey Trot had 618+ ran in the race.

Chairman Bulkley thanked participants of the Holiday Parade. DEDC update - working with companies

in Derry looking to expand and find a new location in Derry. Have a cable show called "What's Developing".

Councilor Coyle invited the Derry Rail Trail Alliance for a presentation.

Derry Rail Trail

Eric Whitney, Wilson Rd and Mark Samsol, President of the Windham Trail Alliance explained the pathway expansion to connect the trail from Derry to Windham using the Lawrence branch of the B&M Railroad line owned by the Town of Derry. The conceptual Design plan is being donated by Edward M Hebert & Associates.

Motion to allow the Administrator to accept the donation from Edward M Hebert & Associates for the Derry Rail Trail by Councilor Coyle, seconded by Councilor Metts. Vote: 7-0-0

The Town Administrator will write a letter of authorization for Edward M Hebert & Associates.

Administrator's Report –

- Annual notice to merchants and residents you cannot plow your business lot out onto the sidewalks and streets.
- Paul Dionne has been confirmed as a member of the NH Wetlands Council
- Damages to mailboxes by snow plows if a mailbox is less than 8ft from the road the Town will not replace.

***** Red Knights Motorcycle Club Presentation & Donation to
Heart Safe Derry

Mike Gagnon of the Derry Fire Department explained Heart Safe Derry. Robert DeGroot, Firefighter of the Derry Fire Department and Vice President of the Red Knights Motorcycle Club gave a donation of \$1932.00 raised by the members through Derry Businesses and prizes for their fundraiser.

Motion to accept the Donation of \$1932.00 from the Red Knights Motorcycle Club by Councilor Coyle, seconded by Councilor Ferrante. Vote 7-0-0.

***** Cert Team

Chief Klauber gave an overview of the CERT program and its function during an emergency. This program is made up of Citizen Volunteers.

Councilor Chirichiello asked about the liability of the volunteers. Chief Klauber replied that the Federal and State Volunteer Act cover them.

Public Hearing

07-94 Amend the Code of the Town of Derry, Chapter 150, Section 150-10 Stop & Yield Intersection, to add a yield sign at Whittemore Road @ Norman Drive & Whittemore Road @ Pelican Circle

Motion to Open: Chirichiello, seconded by Metts 7-0-0

Public Input: none

Motion to Close: Councilor Metts, seconded by Chirichiello 7-0-0

Councilor Carney asked questions of Chief Garone regarding yield signs as opposed to a stop sign.

Motion: Move to amend the Code of the Town of Derry, Chapter 150, 150-10 Stop and Yield Intersection, to add the following information:

Be it ordained by the Derry Town Council as Follows:

**Add a yield sign at: Whittemore Rd @ Norman Dr
Whittemore Rd @ Pelican Circle**

Motion by: Councilor Chirichiello, seconded by Councilor Ferrante. Vote 7-0-0**07-95 Outside Detail Overtime Rate (Police)**

Town Administrator Stenhouse explained that there was calculation error and rates are listed below.

Police Department Special Detail Rates 12/01/07

| | | |
|--------------------------------------|---------|-----------|
| Top Step Police Officer | 7/1/07 | \$25.69 |
| OT Rate | \$38.54 | |
| Roll Ups | | |
| Medicare | 1.45% | \$.56 |
| NH Retirement | 11.84% | \$ 4.56 |
| Worker's Comp | 3.68% | \$.95 |
| Administrative Roll Up | 7.00% | \$ 2.70 |
| Total Roll-Ups | 23.97% | \$ 8.77 |
| Cost/hr. with rollup | | \$47.31 |
| Detail Rate per hour EFF. 12/1/07 | | \$47.50 |
| Minimum Charge (4hours) | | \$ 190.00 |

Motion to Open the Public Hearing by Councilor Chirichiello, seconded by Councilor Coyle. Vote 7-0-0**Public Input:**

Paul Hopfgarten, Fairway Dr – questioned where increase was going, as he did not have an updated rate schedule. Chief Garone stated in the Administrative roll-up. He also asked who special details were handle by. Chief Garone answered Derry PD.

Motion to Close by Councilor Carney, seconded by Councilor Metts 7-0-0

Motion: Move that the Town Council adopts the billing rate schedule for the Police Outside Detail Overtime Rate of \$47.50 per hr as indicated in the attached spreadsheet by Councilor Metts, seconded by Councilor Ferrante Vote: 7-0-0

New Business**07-103 Accept Gift of Conservation Easement**

Paul Dionne of the Conservation Commission gave an overview of the years that Mrs. Martin has worked on presenting this Gift to the Town. The land is located between Cemetery Road and Lane Road. The Council thanked Hannah Rutter Martin, her brother Michael Rutter and niece Rebecca Rutter for putting this together and granting this gift to the town.

Motion: Move that pursuant to RSA 36A: 4, Powers and the Derry Town Charter, agenda item 07-103 the Grant of Conservation Easement as offered by Hannah Rutter Martin be accepted. Motion by Councilor Coyle, seconded by Councilor Ferrante Vote: 7-0-0

Old Business**07-74 Funding for Exit 4-A**

Discussion of Attorney Boutin's opinion of the vote taken at the November 13, 2007 regarding Option #1 of the funding alternatives related to Exit 4-A. Legal Counsel's opinion states that the motion failed as a 2/3 majority vote was needed for passage the vote did not meet these requirements with or without Councilor Coyle's vote. Discussion continued in conjunction with Exit – 4A, as the State funding may be relinquished and related issues.

Motion: To release the letter from Attorney Boutin dated 11/23/07 re: Supplemental Budget Vote/Conflict of Interest by Councilor Coyle, Seconded by Councilor Carney Vote: 7-0-0. (Attachment #1)

Motion by Councilor Metts to table until January 15th, Second by Councilor Coyle. Vote: 3-3-1 (Fairbanks, Carney, Bulkley, abstention Coyle) failed

Motion by Councilor Carney to table until State Legislature approves 10 yr Highway Plan, Seconded by Councilor Fairbanks. Vote: 3 – 4 – 0 (Metts, Ferrante, Chirichiello, Bulkley) failed

Motion: Move a budget transfer of \$30,000 from General Fund Other Municipal Obligations Debt service (980), move to close Charter Commission Fund (3054) and transfer \$12,691.74, and utilize \$147,116 of the previously authorized \$5 million appropriation and bonding for Exit 4-A in order to increase other Municipal Obligations Professional Services (390) FY08 budget by \$189,807.74 for additional Exit 4A EIS consulting services (07-74 option#2 dated 11/8/2007) Motion by Councilor Ferrante, Seconded by Councilor Metts.

Amended by Council Fairbanks and seconded by Councilor Chirichiello.

Amendment: The \$5 million commitment for Exit 4A will include a deduction of any expenditure to date or in the future that it has cost the Town of Derry for this project prior to the Bond being issued. Council Chairman Bulkley called for the Council to vote on the motion as amended.

Vote: 4-3-0 (Fairbanks, Carney, and Coyle) passed

07-99 Prosecutor Position

Motion to remove from the Table by Councilor Coyle, Seconded by Councilor Fairbanks
Vote: 6-0-0 (Councilor Chirichiello absent from vote)

Discussed continued from the prior meeting whether or not a Prosecutor (Attorney) should be hired to replace a patrolman who presently holds the position.

Councilor Fairbanks read into the minutes an article in the Eagle Tribune on 5/19/2006. **(See Attachment #2)**

Councilor Bulkley felt that the prior Police Prosecutors have done a successful job. He feels that this decision is best left to the Police Chief and the Town Administrator.

Councilor Ferrante asked budgetary questions for the cost of the Attorney Prosecutor.

Councilor Coyle asked how many Police Officer vacancies are available. (Chief Garone 1)

Discussion continued regarding cost to the Town for this position.

Councilor Ferrante would like more information before moving forward.

Councilor Coyle asked to this item to the January 15th meeting.

Motion to extend for 10 minutes 7-0-0

Public Forum – non-agenda items

Paul Hopfgarten, Fairway Dr – wanted to discuss agenda items and felt it was unfair not to be able to discuss the items.

Al Baldassaro, Londonderry – Began speaking on 4A and was asked by Chairman Bulkley not to continue.

Councilor Coyle, “point of order” moves to strike the non-agenda item from the public forum, seconded by Councilor Fairbanks. Vote: 4-3-0 (Chirichiello, Ferrante, and Bulkley) passed.

Chairman Bulkley questioned if a non-Derry Resident can speak at the Town Council meetings.
Al Dimmock, High Street- asked that he be heard.

Al Baldassaro, Representative of Londonderry – disagrees with funding exit 4A. Londonderry has been paying out of its general fund they have not bonded for this.

Chairman Bulkley disagreed and for the record Londonderry has bonded for Exit 4A.

Joe Dicchario, Humphrey Rd – Discussed building Economic Development on the Rte 28S and add the infrastructure necessary. Disagrees with Exit 4A funding.

Councilor Coyle moved to extend another 10 minutes 7-0-0

Paul Hopfgarten, Fairway Dr – wanted to know if it was a permanent motion to allow the public to speak on agenda items. He would like it to be.

Al Dimmock, High St – Spoke on micro managing by Town Council he believes it should be done by them.

Ron Goldthwaite, Scenic Dr – Stated the meeting the State of NH on Exit 4A held a few months ago was the preceding to Eminent Domain by the State of NH. Asked if Town Council has read the 595 page report.

Council Requests/open discussion

Councilor Fairbanks – status of “no parking” on Windham Depot Rd. Thanked Mrs. Martin again.

Town Administrator Stenhouse asked Councilor Fairbanks to email him in regards to the “No Parking” on Windham Depot Rd.

Motion to adjourn 10:25pm

Town Clerk

Date

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